

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

RESOLUTION NO. R5-2006-XXX

AMENDMENT TO THE WATER QUALITY CONTROL PLAN
FOR
THE SACRAMENTO RIVER AND SAN JOAQUIN RIVER BASINS

FOR
THE CONTROL OF DIAZINON AND CHLORPYRIFOS RUNOFF INTO THE
SACRAMENTO-SAN JOAQUIN DELTA

WHEREAS, the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) finds that:

1. In 1975 the Central Valley Water Board adopted the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins (Basin Plan), which has been amended occasionally.
2. The Basin Plan may be amended in accordance with the California Water Code Section 13240, et seq.
3. Water Code section 13241 authorizes the Central Valley Water Board to establish water quality objectives and Water Code section 13242 sets forth the requirements for a program for implementation for achieving water quality objectives.
4. Water Code section 13243 authorizes the Central Valley Water Board to specify certain conditions or areas where the discharges of certain types of waste will not be permitted.
5. The Sacramento-San Joaquin Delta Waterways have been identified under the federal Clean Water Act Section 303(d) as impaired due to elevated concentrations of diazinon and chlorpyrifos.
6. The Bay Protection Program Clean-up Plan for the Delta, which has been approved by the Central Valley Water Board and State Water Resources Control Board, includes requirements to develop a Basin Plan Amendment for diazinon and chlorpyrifos in the Delta.
7. The Central Valley Water Board recognizes that the Basin Plan does not include numeric water quality objectives for diazinon and chlorpyrifos, nor a plan to reduce diazinon and chlorpyrifos concentrations in the Delta Waterways; therefore, a Basin Plan Amendment is appropriate.

8. The proposed amendment modifies Basin Plan Chapter III (Water Quality Objectives) to establish site specific number objectives for diazinon and chlorpyrifos in the Delta Waterways.
9. The proposed amendment identifies the requirement to meet the additive formula already in Basin Plan Chapter IV (Implementation), for the additive toxicity of diazinon and chlorpyrifos.
10. The proposed amendment modifies Basin Plan Chapter IV (Implementation) to establish an implementation program to reduce pesticide runoff and diazinon and chlorpyrifos dischargers into the Delta Waterways, including the loading capacity and allocations requirements of a Total Maximum Daily Load (TMDL).
11. The proposed amendment modifies Basin Plan Chapter V (Surveillance and Monitoring) to include monitoring requirements to allow the Central Valley Water Board to assess progress in reducing diazinon and chlorpyrifos discharges and preventing toxicity from pesticide runoff.
12. The proposed amendment requires dischargers of diazinon and chlorpyrifos to develop and implement a plan to reduce diazinon and chlorpyrifos levels in the Delta Waterways.
13. The Central Valley Water Board recognizes that the Basin Plan does not specify which waterbodies or reaches are referred to in the Basin Plan's discussion of Delta Waterways.
14. The proposed amendment adds an appendix to the Basin Plan which identifies specific waterbodies and reaches of waterbodies within the legal boundary of the Delta as Delta Waterways to which the proposed water quality objectives, loading capacity and allocations will apply.
15. The Central Valley Water Board has considered the factors set forth in Water Code section 13241, including economic considerations, in developing this proposed amendment. The costs of implementing the proposed amendment are reasonable relative to the water quality benefits to be derived from implementing the proposed amendment, considering the size of the geographic area affected by the amendment, and that the estimated costs of compliance with this amendment duplicate to some extent the costs of complying with existing Basin Plan water quality objectives, the Irrigated Lands Conditional Waiver, and other pesticide use regulations from the Department of Pesticide Regulation.

16. The proposed amendment includes an estimate of the cost of the proposed implementation program to agriculture and identifies potential sources of financing, as required by Water Code section 13141.
17. Central Valley Water Board staff developed a draft staff report and draft Basin Plan Amendment for external scientific peer review in February 2006 in accordance with Health and Safety Code Section 57004 and the draft final staff report and amendment have been changed to conform to the recommendations of the peer reviewers or staff has provided an explanation of why no change was made.
18. The Central Valley Water Board finds that the scientific portions of the Basin Plan Amendment are based on sound scientific knowledge, methods, and practices in accordance with Health and Safety Code Section 57004.
19. The Central Valley Water Board finds that the proposed amendment is consistent with the State Water Resources Control Board Resolution No. 68-16, in that the changes to water quality objectives (i) consider maximum benefit to the people of the state, (ii) will not unreasonably affect present and anticipated beneficial use of waters, and (iii) will not result in water quality less than that prescribed in policies, and the proposed amendment is consistent with the federal Antidegradation Policy (40 CFR part 131.12). The proposed amendment requires actions to be taken to implement management practices to ensure compliance with water quality objectives. Such actions are of maximum benefit to the people of the state. Reduction of discharges of diazinon and chlorpyrifos to the Delta Waterways is necessary to protect beneficial uses of the Delta Waterways. The proposed amendment will not unreasonably affect present and anticipated beneficial uses nor result in water quality less than described in applicable policies because the amendment is intended to result in compliance with water quality objectives. The actions to be taken are not expected to cause other impacts on water quality.
20. The regulatory action proposed meets the "Necessity" standard of the Administrative Procedures Act, Government Code, section 11353, subdivision (b).
21. The basin planning process has been certified as "functionally equivalent" to the California Environmental Quality Act requirements for preparing environmental documents as specified in Title 23 California Code of Regulations (23 CCR) Section 3782 and is, therefore, exempt from those requirements (Public Resources Code, Section 21000 et seq.).
22. The Central Valley Water Board staff held a scoping meeting on January 19, 2005 and a public workshop on April 27, 2006 to receive comments on

the draft amendment and to identify any significant issues that must be considered.

23. Central Valley Water Board staff has prepared a draft amendment and a staff report dated April 2006.
24. Central Valley Water Board staff completed an environmental checklist that concluded that the proposed amendment results in no potential for adverse effect, either individually or cumulatively, on wildlife or the environment.
25. Central Valley Water Board staff has circulated a Notice of Public Hearing, Notice of Filing, a written staff report, and environmental checklist, and a draft proposed amendment to interested individuals and public agencies, included persons having special expertise with regard to the environmental effects involved with the proposed amendment, for review and comment in accordance with state and federal environmental regulations (23 CCR Section 3775, 40 CFR 25, and 40 CFR 131).
26. The Central Valley Water Board held a public hearing on June 2X, 2006, for the purpose of receiving testimony on the draft Basin Plan amendment. Notice of the public hearing was sent to all interested persons and published in accordance with California Water Code, section 13244.
27. A Basin Plan amendment must be approved by the State Water Board, Office of Administrative Law (OAL), and the United States Environmental Protection Agency (USEPA) before becoming effective.
28. The Central Valley Water Board finds that the amendment to the Basin Plan was developed in accordance with California Water Code Section 13240, et seq.

THEREFORE BE IT RESOLVED:

1. Pursuant to Section 13240, et seq. of the California Water Code, the Central Valley Water Board, after considering the entire record, including oral testimony at the hearing, hereby approves the staff report and adopts the amendment to the Basin Plan as set forth in Attachment 1.
2. The Executive Officer is directed to forward copies of the Basin Plan amendment to the State Water Board in accordance with the requirements of Section 13245 of the California Water Code.
3. The Central Valley Water Board requests that the State Water Board approve the Basin Plan amendment in accordance with the requirements

- of Sections 13245 and 13246 of the California Water Code and forward it to OAL and the USEPA.
4. If during its approval process the Central Valley Water Board staff, State Water Board or OAL determines that minor, non-substantive corrections to the language of the amendment are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Central Valley Water Board of any such changes.
 5. The Central Valley Water Board concurs with staff's conclusion that the proposed amendment will have no potential for adverse effects, either individually or cumulatively, on wildlife or the environment and the Executive Officer is authorized to sign a Certificate of Fee Exemption and following approval of the Basin Plan amendment by the OAL submit this Certificate in lieu of payment of the Department of Fish and Game filing fee to the Secretary for Resources.
 6. The environmental documents prepared by Central Valley Water Board staff pursuant to Public Resources Code Section 21080.5 are hereby certified and, following approval of the Basin Plan amendment by the OAL, the Executive Officer shall file a Notice of Decision with the State Clearinghouse.

I, PAMELA CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Valley Region, on June 2X, 2006.

PAMELA CREEDON, Executive Officer

Attachments: Attachment 1: Amendment to Basin Plan for the Control of Diazinon and Chlorpyrifos Runoff into the Sacramento-San Joaquin Delta